

specification and claims to overcome the Examiner's objections, and has additionally added an abstract as new page 12. The text of the abstract is taken directly from the PCT application from which the present application claims priority, specifically PCT/EP99/07071. Applicant therefore submits that the changes made to the specification do not add any new matter, but simply correct for minor errors within the specification.

Additionally, Applicant has added new Claim 15, which contains substantially the same limitations as the now-withdrawn Claim 12. Claim 15 has been amended to correct for the reference to multiple preceding claims. Therefore, Applicant submits that new Claim 15 should be in condition to be examined with the remainder of the application.

The Examiner has rejected Claims 5, 6, and 10 of the present invention under 35 U.S.C. §112, second paragraph, based on the contention that the claims are indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Applicant has amended the claims to overcome the Examiner's rejection. Specifically, Applicant has amended claim 1 to remove the term "optionally," and in doing so has made the working layer a positively recited element within that claim. Additionally, Applicant has deleted the portions of Claims 6 and 10 that refer in the alternative to a narrow range while reciting a broad range, and has added new claims 16-18 containing the alternative ranges in dependent claims. As such, Applicant submits that the Examiner's §112 rejections have been overcome, and respectfully requests that the rejections now be withdrawn.

The Examiner has rejected Claims 1, 2, 4, 7 and 8 under 35 U.S.C. §102(b) based on the contention that they are anticipated by a number of references. Specifically, the Examiner contends that Claims 1, 2, and 4 are anticipated by U.S. Patent No. 5,120,325, issued to Dow, Jr. (Dow '325). Claim 1 is anticipated by U.S. Patent No. 3,797,494, issued to Zaffroni (Zaffroni '494), Claims 1,

4, 7 and 8 are anticipated by U.S. Patent No. 2,905,174, issued to Smith (Smith '174), and Claim 1 is anticipated by U.S. Patent No. 5,586,971, issued to Newman (Newman '971).

The Examiner has also rejected a number of claims under 35 U.S.C. §103 based on the contention that they are unpatentable over one or more references. Specifically, the Examiner has rejected Claim 4 as being unpatentable over Newman '971, Claims 5 and 6 as being unpatentable over Zaffroni '494, Claims 9-11 as being unpatentable over Smith '174, and Claim 14 as being unpatentable over Dow '325 in view of U.S. Patent No. 4,807,753, issued to Goldstein (Goldstein '753). After a review of the Examiner's arguments, however, it is clear that the Examiner intended to reject Claim 3, which claims a surface treatment or a surface coating given to the external surface, as being unpatentable over Newman '971, and not Claim 4, which claims an external surface exhibiting an imprint with a skin pattern. Therefore, the following arguments are based on the Examiner's rejection of Claim 3, and not Claim 4, as being unpatentable over Newman '971.

Applicant respectfully traverses the Examiner's rejections under both §102 and §103. Solely to expedite the prosecution of the application, however, Applicant has amended the claims so as to overcome the Examiner's rejections. Specifically, Applicant has added the limitations of Claim 3 into Claim 1, and deleted Claim 3. As will be explained further below, none of the references cited by the Examiner teach or disclose Claim 1 as amended. Further, as the remaining claims all depend from Claim 1, Applicant will address the Examiner's concerns relative to that claim only.

Claim 1 of the present invention has been amended to claim a plaster dressing comprising, among other things: "[An] external surface (14) . . . [of the base layer with] a surface treatment or a surface coating (16) so that it is either lipophilic or hydrophilic." (Claim 1, *emphasis added*). None of the references cited by the Examiner, either alone, or in combination with any of the other cited prior art, teach or suggest a plaster having a base layer with a separate/additional structural

layer, namely a layer comprised of a surface treatment or surface coating, that is lipophilic or hydrophilic. Such a treatment or coating imparts the hydrophilic or lipophilic properties to the base layer of the plaster, regardless of the particular materials selected for the base layer. By doing so, the plaster of the present invention, as disclosed in Claim 1, may be used with a plethora of base layer materials, not simply with hydrophilic or lipophilic materials.

The Examiner contends that Newman '971 discloses the structural equivalent to the present invention as claimed in the previous Claim 3, and now in the now-amended Claim 1, because it shows a backing layer constructed from paper tape, which is inherently hydrophilic. Applicant respectfully disagrees with the Examiner's contention. Even if it could be argued that Newman '971 discloses a backing layer that is hydrophilic, which is never discussed in the reference, such a device clearly does not show a separate coating or treatment layer, separate and apart from the backing layer. Further, it would not be obvious to add such a layer to the structure in Newman '971, as the structure in that reference is complete in and of itself; no additional layer is needed. Newman '971, however, is strictly limited to the materials available for the base layer, as the base layer itself must be capable of receiving and retaining a cosmetic application.

The present invention, as claimed, is not directed to base layer which is or must be hydrophilic or lipophilic. Instead, it is directed to a separate layer/coating which has such properties. As such, and as claimed, the present invention is capable of using any number of base structures that may not otherwise be compatible with cosmetic layers. By using a separate layer of surface coating or surface treatment to impart the hydrophilic or lipophilic properties to the plaster base layer, the main features of the plaster, namely flexibility and strength, can be maximized, while still ensuring that the material will be compatible with the makeup. Therefore, the present invention is neither taught nor suggested by Newman '971, nor any of the other references cited by the Examiner, either

alone or in combination with any other prior art reference.

Based on the above, Applicant submits that none of the references cited by the Examiner either teach, disclose or suggest the present Claim 1 as amended. Further, Applicant additionally submits that the remaining claims all depend from independent Claim 1, and as such contain all of the limitations of that Claim. Therefore, the Examiner's remaining rejections of Claims 2-14 should be deemed moot in light of the above amendments.

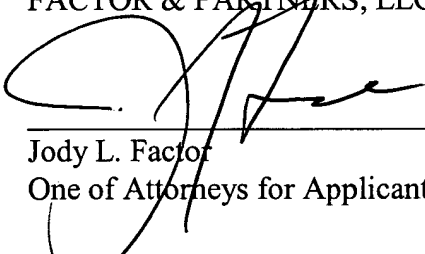
In light of the foregoing, Applicant submits that amended Claim 1, along with original claims 2, 4-11, 13-14, and newly added claims 15-18, should now be in condition for allowance. Accordingly, reconsideration and passage to allowance is respectfully requested.

Should anything further be required, a telephone call to the undersigned, at (312) 226-1818, is respectfully invited.

Respectfully submitted,

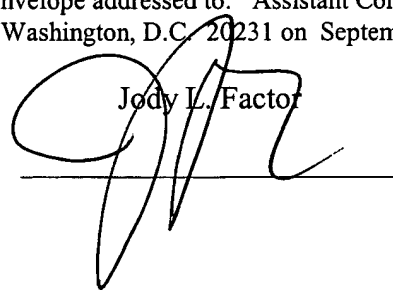
FACTOR & PARTNERS, LLC

Dated: September 13, 2002

  
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Jody L. Factor  
One of Attorneys for Applicant

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on September 13, 2002.

  
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Jody L. Factor

## **AMENDMENTS TO THE SPECIFICATION WITH MARKINGS TO SHOW CHANGES**

Please delete the paragraph on Page 1, line 26, beginning with “In accordance . . . .”, and insert:

- -In accordance with the invention this object is achieved  
by virtue of a plaster according to the claims [Claim 1]. - -

Please delete the paragraph on Page 1, line 29, beginning with “The plaster . . . .”, and insert:

- -The plaster according to the claims [Claim 1] has a skin-like appearance by reason of its prepared external surface.  
Make-up can be applied onto the external surface, so that  
the plaster then no longer stands out from its surroundings  
in terms of colour. - -

Please delete the paragraph on Page 2, line 1, beginning with “A surface . . . .”, and insert:

- -A surface that accepts a cosmetic preparation can be  
obtained in simple manner in accordance with the  
claims [Claim 2]. In practice, the roughening can be  
effected by electrical discharge, etching or by mechanical  
means. - -

Please delete the paragraph on Page 2, line 6, beginning with “With the . . . .”, and insert:

- -With the further development of the invention according  
to the claims [Claim 3] a good adhesion of lipophilic or  
hydrophilic cosmetic preparations is achieved. - -

Please delete the paragraph on Page 2, line 10, beginning with “The further . . . .”, and insert:

- -The further development of the invention according to

the claims [Claim 4] is advantageous with regard to an appearance that also comes close to the surface structure of the skin. - -

Please delete the paragraph on Page 2, line 14, beginning with “If the base . . . .”, and insert:

- -If the base layer of the plaster is constructed in accordance with the claims [Claim 5], the base layer can be chosen to be particularly thin: a single-ply layer of microcapsules which have a diameter ranging from a few  $\mu$  to 100  $\mu$ , preferably about 10 to 20  $\mu$ , is sufficient for an effect that is adequate over and beyond one day. If the base layer is provided in a window of the adhesive layer, it can be guaranteed that the surface of the plaster coming into contact with the skin is continuous in flush manner and that the base layer does not show on the outside of the plaster. -

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Please delete the paragraph on Page 3, line 4, beginning with “The further . . . .”, and insert:

- -The further development of the invention according to the claims [Claim 7] permits a good colour adaptation to the surroundings, also when no make-up is used. The plasters are made available in a large number of different colours, it being possible to bring this about in simple manner when use is made of printing-ink layers, on the other hand, the number of available colours is limited, and

making plasters available in various closely graduated colour hues represents a considerable effort. - -

Please delete the paragraph on Page 3, line 15, beginning with “The further . . .”, and insert:

- -The further development of the invention according to the claims [Claim 8] is advantageous with regard to protection of the printing-ink layer against mechanical damage. - -

Please delete the paragraph on Page 3, line 19, beginning with “A plaster . . .”, and insert:

- -A plaster according to the claims [Claim 9] is distinguished in that it adapts itself particularly well to the surface of curved skin segments. Base layers made out of rubber also have particular advantages for medical reasons, e.g. in the dressing of blisters on the foot. - -

Please delete the paragraph on Page 3, line 25, beginning with “If use is . . .”, and insert:

- -If use is made of layer thicknesses such as are specified in the claims [Claim 10], on the one hand the plaster is not visually obtrusive; on the other hand, it has sufficient strength.” Such thin plasters can also be adapted well to the geometry of the surface of the skin. - -

Please delete the paragraph on Page 2, line 31, beginning with “With the . . .”, and insert:

- -With the further development of the invention according to the claims [Claim 11] it is ensured that the plaster does no come loose or peel off, even under unfavourable

conditions (e.g. a lengthy stay in warm water or in the sun).

The plaster remains permanently connected to the surface of the skin and flakes off together with the uppermost dermal layer when the skin is renewed. - -

Please delete the paragraph on Page 3, line 4, beginning with “A plaster . . . .”, and insert:

- -A plaster such as is specified in the claims [Claim 12] is particularly well suited for temporarily covering a surface segment of the skin or for covering a plaster with colour adapted to the colour of the skin, e.g. when bathing. - -

Please delete the paragraph on Page 3, line 9, beginning with “Also in cases . . . .”, and insert:

- -Also in cases when the colour of the plaster, which is predetermined by a printing-ink layer, is exactly adapted to a make-up colour, by plaster and make-up being made available as a set [(Claim 13)], an outstanding colour adaptation obtains between plaster and surroundings. - -

Please delete the paragraph on Page 3, line 15, beginning with “The further . . . .”, and insert:

- -The further development of the invention according to the claims [Claim 14] permits a user simply to take the size of plaster that is required for th particular application from a set. Trimming of a plaster is not necessary. - -



## **AMENDED CLAIMS WITH MARKINGS TO SHOW CHANGES**

1. A plaster with a base layer (10), [optionally with]having a working layer (20) [arranged on said base layer] and [with] an adhesive layer (12), whereby the external surface of the base layer (10) remote from the adhesive layer (12) is formed in such a way that it accepts a cosmetic preparation, characterised in that the base layer (10) bears a printing-ink layer (30) which is situated between the base layer (10) which is made out of transparent material and the adhesive layer (12), and further characterised in that the external surface (14) of the base layer (10) includes a surface treatment or a surface coating (16) so that it is either lipophilic or hydrophilic.
2. The [P]plaster according to Claim 1, characterised in that the external surface (14) is rough.
4. The [P]plaster according to claims 1, characterised in that the external surface (14) exhibits an imprint (28) with a skin pattern.
5. The [P]plaster according to claim 1, characterised in that the working layer (20) comprises at least one microencapsulated (22) active substance (26).
6. The [P]plaster according to Claim 5, characterised in that the active substances (26) comprises [one or more of the] at least one substance[s named below:] selected from the group comprising drying agents[ such as kieselguhr, aluminum oxide and the like, pharmaceutical substances such as, for example,] pharmaceuticals acting on the skin, [e.g. ]anti-inflammatory pharmaceuticals, pharmaceuticals substances which are supplied to the body percutaneously, and skin-care products, [e.g. soothing oils].

7. The [P]plaster according to claim 1, characterised in that the base layer (10) bears a printing-ink layer (30).

8. The [P]plaster according to claim 7, characterised in that the printing-ink layer (3) is situated between the base layer (10) which is made out of transparent material and the adhesive layer (12).

9. The [P]plaster according to claim 1, characterised in that the base layer (10) is made out of rubber.

10. The [P]plaster according to claim 1, characterised in that the thickness of the base layer (10) amounts to between 20 and 100  $\mu\text{m}$ [, preferably between 30 and 60  $\mu\text{m}$ ].

11. The [P]plaster according to claim 1, characterised in that the adhesive layer (12) consists of an adhesive that cures after application of the plaster on the skin.